

(Revised 12/2022)

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

UNITED STATES OF AMERICA,	)	CASE NO. 1:21-cr-377
	)	
	)	
PLAINTIFF,	)	JUDGE SARA LIOI
vs.	)	
	)	AMENDED TRIAL ORDER
FOUAD SAEED ABDULKADIR,	)	
	)	
DEFENDANT.	)	

**SUMMARY OF DATES CONTAINED IN AMENDED TRIAL ORDER**

Motions Deadline . . . . .	Passed
Responses to Motions Deadline . . . . .	Passed
Pre-trial Motion Hearing . . . . .	N/A
Plea Deadline. . . . .	5/9/2023
Motions in Limine Deadline . . . . .	5/31/2023
Responses to Motions in Limine Deadline . . . . .	6/7/2023
Counsel to File Joint Proposed Voir Dire . . . . .	6/23/2023
Counsel to File Joint Proposed Juror Questionnaire . . . . .	6/2/2023
Counsel to File Joint Stipulations as to Uncontested Facts . . . . .	6/23/2023
Counsel to File Joint Preliminary Statement . . . . .	6/23/2023
Telephonic Conference with Counsel to discuss Juror Questionnaire . . . . .	6/9/2023 at 10:00 a.m.
Motions in Limine Hearing and Final Pre-Trial Conference . . . . .	6/14/2023 at 1:00 p.m.
Counsel to Exchange Proposed Jury Instructions . . . . .	6/23/2023
Counsel to File Joint Proposed Jury Instructions . . . . .	6/30/2023
Counsel to Exchange Proposed Exhibits . . . . .	6/30/2023
Counsel to File Under Seal a List of Proposed Witnesses . . . . .	6/30/2023
Counsel to Provide Court with Two (2) Courtesy Copies of Proposed Exhibits and a Removable USB Flash Drive of the Exhibits . . . . .	7/7/2023
Jury Selection . . . . .	7/10/2023 at 8:00 a.m.

### **GUILTY PLEA HEARING**

The plea deadline is **5/9/2023**. A guilty plea hearing shall be scheduled by counsel with the Court to take place on or before this date.

### **DISCOVERY AND RULE 17(c)**

Criminal discovery is governed by Fed. R. Crim. P. 16 and United States Supreme Court and Sixth Circuit law. Motions seeking discovery must set forth the factual and legal support for such discovery. Boiler plate and *pro forma* discovery motions are discouraged.

Fed. R. Crim. P. 17(c) is not a discovery tool. In order to utilize the Court's subpoena power under Rule 17(c), a party must first file a motion on the public docket for the issuance of a subpoena *duces tecum* and must attach to the motion the proposed subpoena. The motion should demonstrate that the proposed subpoena meets the requirements identified by the Supreme Court in *United States v. Nixon*, 418 U.S. 683, 698–99, 94 S. Ct. 3090, 41 L. Ed. 2d 1039 (1974), specifically, “(1) that the documents are evidentiary and relevant; (2) that they are not otherwise procurable reasonably in advance of trial by exercise of due diligence; (3) that the parties cannot properly prepare for trial without such production and inspection in advance of trial and that the failure to obtain such inspection may tend unreasonably to delay the trial; and (4) that the application is made in good faith and is not intended as a general ‘fishing expedition.’” *Id.* at 699–700 (footnote omitted). Any such motion must also make a sufficient showing of relevancy, admissibility, and specificity.

Additionally, the proposed subpoena must meet the technical requirements of Rule 17(c). In particular, the subpoena must request that the document be produced in connection with a formal hearing and must be produced at the courthouse. Proposed subpoenas that provide for document production away from the court—such as an attorney's office—and/or at a date and time far removed from any formal hearing in the case will be denied.

### **MOTION IN LIMINE HEARING AND FINAL PRE-TRIAL CONFERENCE**

The motion *in limine* hearing and final pre-trial conference in this matter will take place in Courtroom 530, 2 South Main Street, Akron, Ohio, on **6/14/2023** at **1:00 p.m.** Lead counsel of record must be present and prepared with full authority to discuss all aspects of the case, including any pending motions and trial schedules. The defendant must be present. NO PLEAS PURSUANT TO A WRITTEN PLEA AGREEMENT WILL BE TAKEN AFTER THIS DATE.

It is the responsibility of counsel to notify the Court in writing immediately of any failure to provide discovery material. The Court will not continue a scheduled trial because of a failure to provide discovery, if this requirement has not been complied with.

### **TRIAL**

Jury selection shall commence in Courtroom 530, 2 South Main Street, Akron, Ohio, on **7/10/2023** at **8:00 a.m.** After jury selection, the Court will immediately proceed with opening statements.

The following instructions will govern the operation of the trial and the obligations of parties and their counsel:

#### **1. TRIAL DAYS**

Trials will begin at 8:00 a.m. and continue until 5:00 p.m. unless circumstances dictate otherwise. A one (1) hour lunch break and two (2) fifteen minute breaks will be provided. Counsel must promptly notify the Court's staff of issues to be addressed by the Court outside the presence of the jury so that trial may proceed with as few interruptions as possible. Accordingly, counsel should expect to be present in the courtroom from 7:45 a.m. until 5:30 p.m. in order to address matters outside the presence of the jury.

All parties are to be present in the courtroom at all times when the jury is seated.

2. **PRE-TRIAL MOTIONS**

All pre-trial motions shall be filed by **DATE PASSED** and responses shall be filed no later than **DATE PASSED**. Pre-trial motions include, but are not limited to, motions to dismiss, motions to suppress, motions for a bill of particular, and other motions that challenge the sufficiency of the charging instrument or the strength of the government's case. Motions of this nature may not be brought beyond the **NOW PASSED** deadline as motions *in limine*.

3. **STIPULATIONS OF FACT AND PRELIMINARY STATEMENTS**

Counsel for the parties shall confer with one another in order to prepare written stipulations as to all uncontested facts to be presented at trial to the jury or to the Court, as the case may be. Stipulations of fact are strongly encouraged in order to eliminate the need for testimony of witnesses as to facts which are not in dispute. Said stipulations shall be signed by both counsel as well as the defendant and filed with the Court no later than **6/23/2023**.

Counsel shall also prepare and submit a Joint Preliminary Statement (not to exceed two (2) pages) describing the case in an impartial, easily understood and concise manner for use by the Court either during *voir dire* or at the time the jury is impaneled. This statement will be used to set the context of the trial for the jury and must be filed with the Court and emailed to chambers in Word format no later than **6/23/2023**.

4. **MOTIONS IN LIMINE**

Motions *in limine*, which are limited to motions that raise evidentiary issues for trial, shall be filed no later than **5/31/2023** and responses shall be filed no later than **6/7/2023**. Unless invited by the Court, reply briefs shall not be permitted. The Court does not look favorably upon the practice of filing *pro forma* motions. It is expected that every motion filed will be based on real factual need and

be supported by a substantial foundation and that such foundation will be explicitly stated in the motion pursuant to Local Criminal Rule 12.1.

## **5. EXHIBITS**

Counsel shall mark for identification purposes all proposed exhibits and material intended to be used or offered during the course of the trial or hearing. All exhibits and/or material intended to be used during the trial shall be marked for identification purposes with labels, available upon request from the Office of the Clerk, and indexed.

All parties shall mark exhibits with numbers and the name of the party (*e.g.*, “1-Government,” “1-Jones,” “1-Smith”). Joint exhibits shall use numbers followed by the word “Joint,” *e.g.*, 1-Joint, 2-Joint. The case number shall appear on the exhibit stickers. Any multi-page exhibit must have numbers applied to each page for ease of identification.

All documentary exhibits and/or papers intended to be used during the course of trial shall be assembled in three-ring binders, with each document or paper properly marked at the lower right-hand corner for identification purposes as described above.

Each party shall place its properly labeled documentary exhibits and/or papers on a removable USB flash drive and send the flash drive to the Court by **7/7/2023**. The following file extensions are permitted for exhibits: .pdf; .jpg; .gif; .wmv; .mpg; .wma; .mp3; .bmp; and .tif. When naming the exhibit files on the flash drive, the following format must be used:

<exhibit number/letter>\_<PARTY + NAME & exhibit name>.<file extension>

Some examples include:

1\_GOVERNMENT Camera Footage.wmv [Government’s Exhibit 1]

1\_DEFENDANT JONES Financial Records.pdf [Defendant Jones’s Exhibit 1]

1\_DEFENDANT DOE April Bank Statement.pdf [Defendant Doe's Exhibit 1]

1 \_JOINT February Payroll.gif [Joint Exhibit 1]

On **7/7/2023**, counsel shall submit to the Court two (2) courtesy copies of all proposed exhibits, along with an index (form attached hereto as "Appendix B") containing a brief description of each exhibit.

Counsel shall exchange exhibits (see Appendix A) on or before **6/30/2023**. The exhibit lists shall list and briefly describe each item of documentary or physical evidence which is to be offered.

Each attorney shall have a continuing obligation to supplement the party's exhibit list immediately upon learning of any additional exhibit. Exhibits not identified and exchanged prior to trial shall not be introduced at trial, absent a showing of good cause.

Where more than ten (10) exhibits are offered by a party, it is required that counsel place all exhibit sets in a three-ring loose-leaf binder/notebook with appropriately marked divider tabs and a table of contents.

Exhibits themselves will not be filed with the Clerk of Court.

**6. WITNESSES**

Counsel shall file under seal a list of proposed witnesses (*see* Appendix B) on or before **6/30/2023**. The witness lists shall provide a brief description of each witness and the purpose of witness's testimony.

**7. VOIR DIRE AND JUROR QUESTIONNAIRE**

The Court will conduct initial *voir dire* of the panel and of individual panel members. The Court will thereafter allow one counsel for each party to question the panel briefly on issues not addressed by the Court.

Joint proposed questions for the Court's *voir dire* must be filed no later than **6/23/2023**.

A Joint Proposed Juror Questionnaire shall be filed with the Court and emailed to chambers in Word format no later than **6/2/2023**. The Court shall conduct a Telephonic Conference with counsel on **6/9/2023** at **10:00 a.m.** to finalize the Juror Questionnaire.

#### **8. JURY INSTRUCTIONS**

Counsel are required to file complete jury instructions with the Court and email them to chambers in Word format. The instructions should include: (1) the general boilerplate instructions on issues such as credibility, burden of proof, etc.; (2) the law applicable to the particular charges for which the defendant is on trial; (3) any interrogatories; and (4) jury verdict forms.

Counsel shall exchange proposed jury instructions no later than **6/23/2023**. Counsel shall then confer regarding their respective proposals in an effort to reach an agreement regarding as many jury instructions and interrogatories as possible.

A single joint submission of jury instructions shall be filed no later than **6/30/2023**, providing: (1) agreed upon instructions; (2) instructions proposed by plaintiff, but opposed by defendants; and (3) instructions proposed by defendants, but opposed by plaintiffs. All proposed instructions shall be supported by citations to legal authority.

**9. JENCKS AND RECIPROCAL JENCKS MATERIAL**

Unless there is a well-founded concern for the safety of the witness, the parties are strongly encouraged to provide Jencks and reciprocal Jencks material no later than the close of proceedings the day before the witness is expected to testify.

**10. SPECIAL INSTRUCTIONS TO COUNSEL**

Any and all motions, responses, stipulations, objections, pleadings or memoranda filed or required to be filed within two (2) business days of any plea, conference, hearing, final pretrial, or trial, shall be emailed to chambers in Word format as well as to opposing counsel on the same day it is filed. If and when a plea or change of plea is scheduled, the plea agreement shall be emailed to the Court in Word format not later than one day prior to the plea.

**11. ELECTRONIC COURTROOM**

The Court is pleased to have one of the most technologically advanced courtrooms in the United States. This courtroom features, among other things, the technology necessary to present evidence in a video format. The Court encourages counsel to utilize this technology whenever appropriate.

Counsel bears the responsibility for developing proficiency with this technology well in advance of trial.

**12. CONDUCT OF COUNSEL**

Pursuant to the Statement on Professionalism issued by the Supreme Court of Ohio on February 3, 1997, counsel are directed to be courteous and civil in all oral and written communications with each other and the Court. Pleadings or any other communications which do not conform to this standard will be rejected.



**13. CHANGE OF ADDRESS**

Counsel shall notify the Court and the Clerk of this Court by letter of any address and/or telephone number changes to assure proper notification.

**IT IS SO ORDERED.**

Dated: January 20, 2023

  
\_\_\_\_\_  
**HONORABLE SARA LIOI**  
**UNITED STATES DISTRICT JUDGE**

APPENDIX "A"

\_\_\_\_\_  
PLAINTIFF

vs.

CASE NO.

\_\_\_\_\_  
DEFENDANT

JUDGE SARA LIOI

PLAINTIFF/DEFENDANT/JOINT EXHIBITS						
EXHIBIT I.D.	DESCRIPTION OF EXHIBIT	I.D.	OFFERED	OBJ.	ADMITTED	NOT ADMITTED

APPENDIX "B"

\_\_\_\_\_  
PLAINTIFF

vs.

CASE NO.

\_\_\_\_\_  
DEFENDANT

JUDGE SARA LIOI

PLAINTIFF/DEFENDANT WITNESSES	
NAME	SYNOPSIS OF TESTIMONY